

### **REMARKS**

Claims 1-54 are pending in the application. The instant application is pending a Restriction Requirement. Applicant respectfully notes the pending Restriction Requirement fails to treat Claims 3, 4, 18, 22-24, and 45-49. It is Applicants' belief that the non-treated claim should be included in Group I. By this paper Applicants provisionally elect to prosecute Group II. Thus, Claims 1, 2, 3-8, 13, 15-17, 18-24, 26, 28-34, and 42-49 are hereby withdrawn from consideration.

Additionally, the instant application is pending an Election of Species Requirement. Applicant notes there appears to be some confusion regarding the pending Species Election as the species appear to be drawn solely to Group I (a scale for a miter saw) and not to Group II (a locking mechanism). Nonetheless, Applicants provisionally elect to pursue Species E (the rotary mechanism of the measurement section including a gear) which is believed to encompass Claims 3, 21-25, 45. As Claims 3, 21-24 and 45 are currently withdrawn, Applicants will elect to pursue Claim 25 should no linking claim be held allowable. Applicants respectfully traverse the pending Restriction Requirement/Election of Species inasmuch as the species overlap and the election is overly burdensome. Furthermore, Applicants respectfully note that Species E is not directed to a subspecies of locking mechanism, but rather to a species of rotary mechanism included in a measurement section. Reconsideration and withdraw of the pending Election of Species in-light of Applicants' election to pursue Group II is respectfully requested.

### CONCLUSIONS

In light of the forgoing, reconsideration and allowance of the claims is earnestly solicited.

DATED: November 4, 2004.

Respectfully submitted,  
PORTER-CABLE CORPORATION

By



Nathan T. Grebasch  
Reg. No: 48,600

SUITER · WEST PC LLO  
14301 FNB Parkway, Suite 220  
Omaha, NE 68154-5299  
Telephone: (402) 496-0300  
Facsimile: (402) 496-0333